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DIRECTOR'S OFFICE

Paper No. 9

TECHNOLOGY CENTER 2100

Schwegman, Lundberg, Woessner & Kluth
P.O. Box 2938
Minneapolis, Minnesota 55402

In re Application of: David R. Tushie et al.)
Application No.: 09/416,252)
Filed: October 12, 1999)
For: SYSTEM AND APPARATUS FOR)
SMART CARD PERSONALIZATION)

**DECISION ON PETITION
UNDER 37 C.F.R. § 1.181 TO
WITHDRAW HOLDING OF
ABANDONMENT**

This is a decision on the request for reconsideration filed September 24, 2001 in response to the decision mailed July 20, 2001 on the petition under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment, filed May 29, 2001.

This application was held abandoned for failure to file a timely response to the Office action of mail date June 16, 2000. A Notice of Abandonment was mailed on March 22, 2001.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

The relevant portion of MPEP § 711.03(c) states:

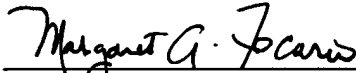
The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

In support of the petition, Applicant asserts that the Office action was not received, and that no record of said Office action was found in the Attorney's file for this application. Petitioner supplies a copy of a docket record consisting of 4 pages bearing the title "Office Actions Received 6/16/2000-9/16/2000" (dated 23-April-01).

Petitioner's submission now meets the criteria set out in MPEP § 711.03(c). Petitioner has included the statement that the copy of the docket record provided represents the record or report "where the nonreceived Office communication would have been entered had it been received".

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Technology Center support staff. The Office action of June 16, 2000 will be remailed to the address noted above with the three month Shortened Statutory Period restarted to run from the date of remailing.



Margaret A. Focarino, Group Director
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce